



POLICE DEPARTMENT

March 17, 2015

MEMORANDUM FOR: Police Commissioner

Re: Police Officer Rasaun Gourdet  
Tax Registry No. 938603  
78 Precinct  
Disciplinary Case No. 2012-6928  
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The above-named member of the Department appeared before the Court on May 9, November 6, and December 3, 2014, charged with the following:

1. Said Police Officer Rasaun Gourdet, while assigned to the 78th Precinct, on or about January 6, 2012, while on duty, having taken prisoner property into custody, did thereafter fail and neglect to safeguard said prisoner property, to wit: \$100 US currency.

P.G. 203-10, Page 1, Paragraph 5 – PUBLIC CONTACT – PROHIBITED CONDUCT  
GENERAL REGULATIONS

2. Said Police Officer Rasaun Gourdet, while assigned to the 78th Precinct, on or about January 6, 2012, while on duty, having become aware of an allegation of corruption against himself, did fail to request a supervising officer to respond to the scene, as required.

P.G. 207-21, Page 2, Additional Data – ALLEGATIONS OF CORRUPTION  
AND OTHER MISCONDUCT AGAINST  
MEMBERS OF THE SERVICE

The Department was represented by Jessica Brenes, Esq., Department Advocate's Office. Respondent was represented by John P. Tynan, Esq. Worth, Longworth & London LLP.

Respondent, through his counsel, entered a plea of Not Guilty to the subject charges. A stenographic transcript of the trial record has been prepared and is available for the Police Commissioner's review.

RECOMMENDATION

Respondent is found Guilty.

FINDINGS AND ANALYSIS

On the evening of January 5, 2012, Police Officer Talat Awad of the 78 Precinct anticrime unit arrested Person A on a complaint of larceny. Person A, who was intoxicated and disheveled, was accused of taking over \$7,500 that had been in a brown paper bag from a store. A was recovered the money at Person A's home.

After the arrest, the prisoner was taken to the 78 Precinct station house and searched. He had in his possession \$227 in United States currency that apparently he possessed legitimately. Awad returned \$97 to Person A to hold, and the remaining \$130 he vouchered as safekeeping (see Department's Exhibit [DX] 4, first relevant invoice). He then went end of tour.

The next day, January 6, 2012, Respondent was working a day tour and was assigned to patrol. He wanted to take lost time, and the patrol supervisor approved it on the condition that he transport Awad's prisoner to the Red Hook Community Justice Center (RHCJC), part of the Brooklyn Court Section, for processing. Respondent did so, along with his partner, Police Officer John Long. Respondent conceded that he took the prisoner into RHCJC himself. When asked why, he answered, "Why did I do that? Just it just happened. It's – it's – Red Hook is a smaller court, you know, it's – the door is right there and we just walked in – I just walked in with him."

Sergeant Christopher Ancona was the supervisor at RHCJC in charge of prisoner processing. Person A was searched again. The officers, who now included cell attendant Police Officer Trevor Graham, found several items. They found the prisoner's wallet, which contained



\$102. He was allowed to keep this. According to Graham, however, they also found a large bankroll in one of Person A's pants pockets, wrapped in a rubber band. This was something Awad had not found during the station house search. It was apparent to Graham that it would be too much money for the prisoner to be allowed to keep. It had to be counted and vouchered as prisoner property.

Ancona testified that Graham told him they found \$802 on the prisoner. Ancona was not present for this search. He came to the search area and watched Graham count the money. Ancona counted to himself as Graham physically laid out the bills and counted out loud. It was \$802. Respondent was either in the room or the hallway "outside the entrance to that room which is open and visible to anyone in the hallway." The room was "all glass." Ancona testified that Respondent was no more than 6 or 7 feet away from the counting table, although he admitted he could not see Respondent during the counting. \$102 was given to the prisoner to keep. Graham gave the remaining \$700 to Respondent to voucher at the 78 Precinct. The RHCJC command log (DX 2) had entries listing that \$700 was recovered from Person A, and that \$700 was given to Respondent to voucher. The prisoner's property form (DX 6) confirmed that there was \$700 to voucher.

Graham testified that he counted the money in Ancona's presence at least twice if not several more times than that. He did so out loud but in a mumbling voice. He made stacks of hundreds. Graham said that Respondent was at the foot of the table during these counts. It came to \$700. Graham told the prisoner that it was too much for him to keep and would have to be vouchered. Graham handed the money to Respondent.

On direct examination, Respondent indicated that Graham told him they found 35 \$20 bills on the prisoner. It was handed back to Respondent in a rubber band. He returned to Long, said, "Look what we got," and returned to the precinct.

On cross examination, however, Respondent conceded that once Graham told him a sum of cash was discovered, they both went back to count it. Graham counted the money at the table of the room, and Respondent and Ancona were at the door. They could not come closer because it was not that big of a room. Respondent agreed that he counted along with Graham as Graham placed the \$20 bills into stacks of \$100. Graham told Respondent that it was \$700. They did this twice. Respondent did not see any discrepancy or disagree with Graham on the amount. Graham rubber-banded the cash back up and gave it to Respondent.

Long had retired by the time of trial but his official Department interview (DX 1) was entered into evidence by agreement of the parties. Long stated that when he and Respondent arrived at RHCJC, Respondent assured Long that Long could stay in the car and Respondent would take care of it himself.

When Respondent returned, he told Long that \$700 had been recovered from the prisoner. Long exclaimed, "\$700? And I said, I looked at him, I said, where was \$700?" Respondent did not answer. Long said that they should just go back to their command and voucher the money, which was what they did. Respondent gave the money, which was folded over with a rubber band around it, to Awad, first clarifying to Long that the officers actually recovered \$802 from the prisoner and \$102 was returned to him. After Respondent went to Awad, Respondent did not tell Long about any discrepancy.

Awad was present at the station house when Respondent returned, and Respondent took the bankroll to him in the anticrime office. According to Awad, two other officers were there



with Awad. Awad testified that Respondent handed him a rubber-banded bankroll and said \$700 was recovered from Person A's groin area at RHCJC. Awad counted the money but it came to only 30 \$20 bills \$600. Awad informed Respondent that there was only \$600 and recounted it. Awad testified that he counted the money "out loud to him" and again came to \$600. This was in the approximately 10x20 foot anticrime office. Respondent was present in the office for the counting. Awad admitted that Respondent did not seem panicked. He checked his pockets and did not appear to be hiding anything. Respondent answered Awad, "I guess it was \$600 is what they gave me."

Respondent testified that he went to Awad and said, "Here's \$700." He was "pretty sure" he then walked away, noting that he was trying to take lost time. But before he left, Awad told him that there was \$600. This time, they counted it together. Respondent admitted not being bothered by the discrepancy. He told Awad, "Wow, I guess it was \$600," and left the room. Respondent claimed that he informed the desk officer of the discrepancy. Meanwhile, Awad vouchered the \$600 at the desk (see DX 3, second relevant voucher) and sent it to RHCJC.

Graham testified that he received the voucher listing \$600. This did not seem right and a co-worker mentioned that he thought he had heard \$700 was to be vouchered. The prisoner also confirmed that \$700 had been removed from him. Ancona also testified that the voucher read \$600. Ancona spoke to Awad, who told him that Respondent had given him \$600 to voucher. Ancona instructed Awad to speak to Respondent about the matter.

Ancona testified that he also spoke to Respondent and told him that while they had given him \$700, only \$600 was listed on the voucher. Respondent contended that RHCJC only gave him \$600. Ancona responded that was not the case, as confirmed by the command log and prisoner's property form, and Respondent should search the transport vehicle and his command

to see if \$100 had gotten misplaced. Respondent called back and said he had done as Ancona instructed, but there still was only \$600.

Respondent testified that he was “shocked” when Sergeant “Anaconda” called him and did not know how the discrepancy had arisen.

Graham testified that he noticed the discrepancy right away. Even the prisoner complained, as he was under the impression that \$100 of his was now missing.

Ancona searched RHCJC and spoke to the prisoner, who confirmed that he had come in with \$800. Ancona also searched the search room, the hallway, and RHCJC’s parking lot to see if the money had fallen somewhere. Ancona contacted the 78 Precinct desk officer and confirmed through the Internal Affairs Bureau (IAB) that the supervisor made a notification.

Awad testified that later on the same day he vouchered the \$600, he received a call from RHCJC stating that there was a discrepancy, that \$700 had been recovered from the prisoner. Awad informed the anticrime sergeant, who said that he would take care of it. Awad told Respondent to speak to the sergeant as well.

As the transporting officer in possession, Respondent was entrusted with the security of the cash. He presented two exculpatory possibilities. One was that the RHCJC officers miscounted the money. The other was that Awad miscounted it or otherwise lost, misplaced or stole five \$20s.

Graham and Ancona credibly testified that they made multiple, careful counts of the currency. Graham realized that it was a large amount of money so he called in a supervisor. There were many bills so it follows that they would have needed to be cautious. The Court credits their testimony that it was \$700. If Respondent was present for the counting, and it really was only \$600, he should have noticed this immediately. If he absented himself mentally from



part of the counting, he should not be heard to complain that the RHCJC officers erred. Either way, Respondent was not paying attention.

It is true that Awad did not find the cash during the station house search. It also is true, however, that the prisoner had secreted it on his person. It does not follow that Awad was derelict in counting the money or in securing it. Again, Respondent absented himself from the room while Awad counted the money the first time. He cannot say that Awad miscounted it. Moreover, it was Awad that called Respondent's attention to a missing \$100. If Awad was trying to hide something, he would not have said anything at all.

Respondent's lost time also is important here. He indicated that transporting the prisoner was his price for his supervisor's approval of the lost time. All he had to do was transport Person A, return the vehicle, and go home. So he already was in the mindset of being ready to leave. Now, when the RHCJC officers found additional property on Person A that needed to be vouchered, Respondent was shouldered with an additional responsibility. He had to take possession of the property, look for Awad, and even be prepared to voucher it himself if no one else was available. Respondent dropped off the money with Awad and was ready to leave before Awad alerted him that there was only \$600. Respondent indicated that after he purportedly told the desk officer of the discrepancy, he went home. The context of Respondent's account is one in which he might not have been very careful with the property.

Awad's credibility was heightened by his testimony about Respondent's attitude toward the missing money. He testified that Respondent was unbothered by it, saying, "I guess it was \$600." Respondent later admitted in his testimony saying that same thing. Awad's undisputedly credible testimony on this point demonstrated that Respondent had a careless attitude about his responsibility for taking care of the money.

Finally, the greatest opportunity for the money to become lost or misplaced was when Respondent had possession of it. Awad testified that he was in the anticrime office with two other officers when Respondent came in with the money. Respondent, on the other hand, was by himself at several moments, including when he was given the cash to take back to the 78 Precinct. It was undisputed that he chose to leave his partner in the car and do the process himself.

Therefore, the Department proved by a preponderance of the evidence that it was Respondent who failed to secure the cash. He thus is found Guilty of Specification No. 1, failing and neglecting to secure prisoner property.

The second specification alleges that Respondent failed to notify a supervisor once he was informed that there was an allegation of corruption against him. According to the Department, he became aware of such an allegation, for the purposes of this specification, when Awad told him that there was only \$600 and not \$700 as Respondent had told him.

Respondent claimed on cross examination that he told the desk officer of this discrepancy right after Awad told him. He did not mention doing so on direct, even though he was asked specifically what he did after Awad told him it was only \$600. He answered that he went home.

Ancona, however, indicated that he informed the 78 Precinct desk officer about the situation, after receiving the questionable voucher. Ancona's conversation with the desk officer was after Ancona spoke to Respondent because Ancona apparently was giving Respondent time to find the money if it somehow had gotten dropped somewhere. If Respondent had informed the desk officer of the discrepancy right after the interaction with Awad as he claimed, the desk officer should have known about it by the time Ancona called. Yet Ancona seemed to indicate he was the one "to relay the information to him about the discrepancy." The timing as a whole



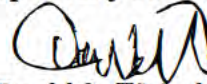
thus indicated that Respondent did not inform a supervisor. Thus, the Court rejects his claim as incredible and finds him Guilty of Specification No. 2.

PENALTY

In order to determine an appropriate penalty, Respondent's service record was examined. See Matter of Pell v. Board of Education, 34 N.Y.2d 222 (1974). Respondent was appointed to the Department on July 11, 2005. Information from his personnel file that was considered in making this penalty recommendation is contained in an attached confidential memorandum.

The Department's penalty offer on this case was the forfeiture of 20 vacation days. In light of Respondent's record, which apparently includes other failures to safeguard prisoner and Department property, as well as other off-duty matters, see Confidential Mem., *infra*, et al., this is inadequate. Officers with better records and similar misconduct have received heavier penalties. See, e.g., *Case No. 2010-2442* (Sept. 17, 2012) (seven-year police officer with no prior disciplinary history negotiated penalty of 25 vacation days for failing to voucher prisoner property after having been directed by a supervisor, and to safeguard and prepare voucher for earrings and necklace, which resulted in their loss). Therefore, the Court recommends that Respondent forfeit 25 vacation days as a penalty.

Respectfully submitted,



David S. Weisel

Assistant Deputy Commissioner Trials

APPROVED

MAY 01 2015  
WILLIAM J. BRATTON  
POLICE COMMISSIONER



POLICE DEPARTMENT  
CITY OF NEW YORK

From: Assistant Deputy Commissioner Trials  
To: Police Commissioner  
Subject: CONFIDENTIAL MEMORANDUM  
POLICE OFFICER RASAUN GOURDET  
TAX REGISTRY NO. 938603  
DISCIPLINARY CASE NO. 2012-6928

In 2014, Respondent received an overall rating of 3.0 "Competent" on his annual performance evaluation. He was rated 4.0 "Highly Competent" in 2013 and 3.5 "Highly Competent/Competent" in 2012. [REDACTED]  
[REDACTED]

In 2011, Respondent received charges and specifications for, during an off-duty dispute with a motorist, intentionally and wrongfully causing damage to another's personal property and for failing to avail himself properly to investigating detectives. He forfeited 30 pre-trial suspension days, five additional vacation days, and was placed on one-year dismissal probation. At its completion he was placed, and since has remained on, Level II Monitoring.

For your consideration.



David S. Weisel  
Assistant Deputy Commissioner Trials